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**UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF NEW JERSEY  
 NEWARK VICINAGE**

OCCIDENTAL CHEMICAL CORPORATION,	)	
	)	Hon. Judge Madeleine Cox Arleo
	)	Hon. Judge Joseph A. Dickson
Plaintiff,	)	
	)	
v.	)	Civil Action No. 2:18-cv-11273-MCA-
	)	JAD
21ST CENTURY FOX AMERICA, INC., <i>et al.</i> ,	)	
	)	
Defendants.	)	<b>DEFENDANT CLEAN EARTH OF</b>
	)	<b>NORTH JERSEY, INC.'S</b>
	)	<b>OBJECTIONS AND RESPONSES TO</b>
	)	<b>STANDARD SET OF</b>
	)	<b>INTERROGATORIES TO BE</b>
	)	<b>ANSWERED BY PLAINTIFF AND</b>
	)	<b>DEFENDANTS</b>
	)	

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Pursuant to Federal Rules of Civil Procedure 26 and 33, Local Civil Rule 33.1, and the Second Pretrial Scheduling Order (ECF No. 550), Defendant Clean Earth of North Jersey, Inc. (“Defendant”), by and through its undersigned counsel, hereby submits the following Responses and Objections to Plaintiff Occidental Chemical Corporation’s (“OCC”) Standard Set of Interrogatories to be Answered by Plaintiff and Defendants (“Interrogatories”).

Dated: July 1, 2019

**GREENBERG TRAURIG, LLP**

By: /s/ Eric S. Aronson  
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### **PRELIMINARY STATEMENT**

Defendant reserves the right to object to the admission in evidence of any of the information provided in Defendant's Response to OCC's Interrogatories ("Response") on any ground including, but not limited to, the ground that any information is irrelevant to the issues in this action. Defendant has made reasonably due and diligent efforts to respond appropriately to all Interrogatories. Defendant and its attorneys have not, however, completed their discovery and investigation in preparation for trial of this matter, and have not conducted a review of Electronically-Stored Information ("ESI"). Defendant's Responses are based upon information presently available to Defendant and its attorneys and specifically known to the individuals who are preparing these Responses, and these Responses are based upon that information and belief. Defendant reserves the right to update and supplement its Responses if additional information becomes available.

### **GENERAL OBJECTIONS**

Defendant's Response to each and every Interrogatory herein is made subject to and without waiving the following General Objections ("General Objections"). Any failure to incorporate expressly a General Objection with respect to any specific Interrogatory should not be deemed a waiver of that General Objection as it pertains to that Interrogatory.

1. Defendant objects to the Definitions, Instructions, and Interrogatories to the extent that they request information protected against disclosure by the attorney-client privilege, the work-product doctrine, or any other rule of privilege, confidentiality, or immunity provided by law. In responding to the Interrogatories, Defendant will not provide any information so protected, and any protected information disclosed in Defendant's Responses is included inadvertently and is subject to claw back pursuant to paragraph 7 of the parties' Protective Order (ECF No. 543).

2. Defendant objects to the Definitions, Instructions, and Interrogatories to the extent that they seek information that is irrelevant to the subject matter of this action or is not proportional to the needs of this case, or requests information beyond the scope of applicable Court Rules.

3. Defendant objects to the Definitions, Instructions, and Interrogatories to the extent that they are vague, ambiguous, overly broad, unduly burdensome, oppressive, or vexatious, or will cause unnecessary expense.

4. Defendant objects to the Definitions, Instructions, and Interrogatories to the extent that they call for information within OCC's knowledge or to which OCC has equal access on the grounds that each Interrogatory is unduly burdensome, oppressive, harassing, and vexatious, and goes beyond any legitimate need of Defendant for discovery.

5. Defendant objects to the Definitions, Instructions, and Interrogatories to the extent that they are not limited in time to the period during which the facts allegedly giving rise to each of the causes of action asserted by OCC occurred, on the grounds that these requests are overly broad, unduly burdensome, seek information neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence, and are not proportional to the needs of this case.

6. Defendant objects to the Definitions, Instructions, and Interrogatories to the extent that they request information that is not in Defendant's possession, custody, or control, including information that may have been received by any other party to this action. Defendant objects to each request that seeks information related to any entity other than Defendant, including any party to this action. These requests are more appropriately directed to the party or entity itself and not to Defendant. Any of that information is available to OCC from a source other than Defendant at

no greater inconvenience, burden, or expense than OCC seeks to impose on Defendant in making that request.

7. Defendant objects to the Definitions, Instructions, and Interrogatories to the extent that they seek an interpretation of documents, contracts, or agreements, the terms of which speak for themselves, on the ground that they call for legal conclusions.

8. Defendant objects to the Definitions, Instructions, and Interrogatories to the extent that they contain phrases or terms that are undefined and are, therefore, vague and ambiguous.

9. Defendant objects to the Definitions, Instructions, and Interrogatories to the extent that they seek to impose burdens beyond those contemplated by the Court Rules and applicable case law. Defendant will, therefore, respond to the Interrogatories and portions thereof in accordance with the requirements of the Court Rules and applicable case law, subject to all objections.

10. Defendant objects to the Definitions, Instructions, and Interrogatories as being unduly burdensome and oppressive to the extent that they seek the identity of “any” or “all” facts, information, persons, or entities or words of similar import.

11. Defendant objects to the Definitions, Instructions, and Interrogatories to the extent that they seek confidential, proprietary, trade secret, or commercially sensitive business documents or information.

12. Defendant objects to the Definitions, Instructions, and Interrogatories to the extent they seek information that is already in the public domain or attainable by OCC from a source other than Defendant at no greater inconvenience, burden, or expense than OCC seeks to impose on Defendant.

13. Defendant objects to the Definitions, Instructions, and Interrogatories to the extent that they seek to impose upon Defendant the obligation to provide information based upon documents previously provided by other parties, including but not limited to, any of the other defendants in this action. For example, many parties have previously provided extensive information and documentation in response to governmental information requests and discovery requests in *New Jersey Department of Environmental Protection v. Occidental Chemical Corp., et al.*, ESX-L9868-05 (the “State Court Litigation”), which is available to all parties including OCC. Defendant’s Responses to these discovery requests are limited to its own information in its possession, custody, or control, and not information provided by other parties.

14. Defendant objects to the Definitions of “You” and “Your”; “Agent” and “Agents”; and “Person” and “Persons” in the Interrogatories as overbroad to the extent that the terms require Defendant to produce information from or about any entity other than Clean Earth of North Jersey, Inc. These Responses are made on behalf of Clean Earth of North Jersey, Inc.

15. Defendant objects to the Definition of “Disposal Company” to the extent it incorporates the defined term “Waste Material” which is limited to wastes that contain a “COC”, and to the extent it incorporates the defined term “COC” which relates to specific contaminants, because it improperly seeks an admission by deception. Defendant’s Responses shall rely on the definition of “Disposal Company” excluding the terms “Waste Material” or “COC”.

16. Defendant objects to the Definition of “Operation(s)” in the Interrogatories as overbroad and to the extent the Definition implicates the definition of a covered person under 42 U.S.C. § 9607(a) or seeks a legal conclusion about Defendant’s status as an operator of a Property at Issue. Defendant further objects to the Definition of “Operation(s)” to the extent it incorporates the defined term “COC” which relates to specific contaminants, because it improperly seeks an

admission by deception. The definition thus seeks an admission by deception. Defendant's Responses shall rely on the definition of "Operation(s)" excluding the term "COC".

17. Defendant objects to the Definition of "Waste Material" to the extent it incorporates the defined term "COC" which relates to specific contaminants, because it improperly seeks an admission by deception. Defendant's Responses shall rely on the definition of "Waste Material" excluding the term "COC".

18. Defendant objects to the statement in Definition 9 of the Interrogatories "[I]n the event any portion of this definition directly conflicts with a subsequent definition of 'communication' or 'communications' by the Court currently or at a later date, including as to electronically stored information ("ESI"), the Court's definition shall control" as unduly burdensome and beyond the requirements of discovery in this litigation.

19. Defendant objects to the statement in Definition 10 of the Interrogatories "[I]n the event any portion of this definition directly conflicts with a definition of 'document(s)' and/or 'Electronic Documents(s)' approved by the Court currently or at a later date, including as to ESI, the Court's definition shall control" as unduly burdensome and beyond the requirements of discovery in this litigation. Defendant also objects to the Definition of "Document" or "Documents" in the Interrogatories to the extent it includes ESI at this time.

20. Defendant objects to the statement in Instruction 11(b) that Defendant provide a brief description of the contents of any referenced document on the grounds that it would be unduly burdensome, oppressive, vexatious, or will cause unnecessary expense.

21. Defendant objects to the Definition of "Container(s)" to the extent it incorporates the defined term "Waste Material" which is limited to wastes that contain a "COC", because it

improperly seeks an admission by deception. Defendant's Responses shall rely on the definition of "Container(s)" excluding the term "Waste Material".

Subject to and without waiving the foregoing objections, Defendant specifically objects to and responds as follows:

### **SPECIFIC RESPONSES AND OBJECTIONS**

**INTERROGATORY NO. 1.** Identify each Property at Issue at which You have conducted Operations.

**RESPONSE:** Defendant incorporates by references its General Objections as if set forth fully herein. Defendant further objects to Interrogatory No. 1 on the grounds that it is overbroad and unduly burdensome, seeks information that is not relevant to the claims made in this lawsuit, is not proportional to the needs of the case, and would not advance litigation. Defendant further objects that the Definition of the term "Operations" is overbroad, vague, and ambiguous, and to the extent that it purports to include activities or operations by parties other than Defendant. Defendant further objects that the use of the term "Operations" in this Interrogatory assumes that Defendant's activity involved the generation, use, storage, disposal, transfer, or transport of COCs at any Property at Issue. Defendant further objects to the use of the defined term "Operations" to the extent it seeks to call for a legal conclusion or apply a legal or statutory definition. Subject to and without waiving the foregoing objections, including the General Objections, Defendant states that, during the relevant time period, it and its predecessor S&W Waste, Inc. ("S&W") operated at 101-115 Jacobus Avenue, Kearny, New Jersey (the "Jacobus Site"). Discovery in this case and Defendant's investigation are continuing, and Defendant reserves the right to amend or supplement its Response to this Interrogatory.

**INTERROGATORY NO. 2.** For each Property at Issue identified in response to Interrogatory No. 1, describe Your Operations and the dates during which they occurred, Including any changes in the Operations that occurred over time.



**RESPONSE:** Defendant incorporates by references its General Objections as if set forth fully herein. Defendant further objects to Interrogatory No. 2 on the grounds that it is overbroad and unduly burdensome, seeks information that is not relevant to the claims made in this lawsuit, is not proportional to the needs of the case, and would not advance litigation, because it is not limited or specific in time, it seeks information unrelated to the subject matter of OCC's Complaint, including Operations or changes in Operations which might not have any connection to releases of COCs to OU2, and because Operations are not evidence of an actual discharge. Defendant further objects that the use of the term "Operations" is overbroad, vague, and ambiguous, and to the extent that this Interrogatory assumes that Defendant's activity involved the generation, use, storage, disposal, transfer, or transport of COCs at any Property at Issue. Defendant further objects to the use of the defined term "Operations" to the extent it seeks to call for a legal conclusion or apply a legal or statutory definition. Defendant further objects on the basis that the use of the undefined term "changes" is vague, ambiguous, overbroad, unduly burdensome, and seeks confidential, trade secret, private, or otherwise protected or proprietary information, to the extent it seeks information regarding the specifics of Defendant's activities at the Jacobus Site, as opposed to general changes in the types of activities conducted at the Jacobus Site. The cost and burden that would be imposed on Defendant to attempt to identify and describe *every* change in its Operations, regardless of size or nature, over decades, would be disproportionate to the needs of the case and would not serve the purpose of advancing the litigation. Subject to and without waiving the foregoing objections, including the General Objections, Defendant states that it has operated a permitted Treatment, Storage, and Disposal Facility ("TSDF") business at the Jacobus Site from 1998 to present, and that its predecessor S&W operated a permitted TSDF business at the Jacobus Site from 1972 to 1998. Discovery in this case

and Defendant's investigation are continuing, and Defendant reserves the right to amend or supplement its Response to this Interrogatory.

**INTERROGATORY NO. 3.** Identify and describe any transaction(s) related to the ownership of the Property at Issue identified in response to Interrogatory No. 1.

**RESPONSE:** Defendant incorporates by references its General Objections as if set forth fully herein. Defendant further objects to Interrogatory No. 3 on the grounds that it is overbroad and unduly burdensome, seeks information that is not relevant to the claims made in this lawsuit, is not proportional to the needs of the case, and would not advance litigation, because it is not limited or specific in time. Defendant further objects on the basis that the use of the undefined term "transactions" is vague and ambiguous. Subject to and without waiving the foregoing objections, including the General Objections, Defendant states that on December 30, 1998, S&W was purchased by US Plastic Lumber, and operated as S&W Acquisition d/b/a S&W Waste until September 24, 2001. On September 25, 2001, the name was changed to Clean Earth of North Jersey, Inc. Defendant further states that further information responsive to this Interrogatory can be identified in documents that have been and/or will be produced in this litigation. Discovery in this case and Defendant's investigation are continuing, and Defendant reserves the right to amend or supplement its Response to this Interrogatory.

**INTERROGATORY NO. 4.** To the extent You intend to claim You are not the legal successor to the business entity that conducted the Operations described in response to Interrogatory No. 2, Identify and describe any transaction(s) related to the ownership of the business entity that conducted the Operations described in response to Interrogatory No. 2. The time period for this interrogatory is from the earliest date of Your Operations to the present.

**RESPONSE:** Defendant incorporates by references its General Objections as if set forth fully herein. Defendant further objects to Interrogatory No. 4 on the grounds that it is vague, ambiguous, and overbroad. Defendant further objects on the basis that the use of the undefined term "transactions" is vague and ambiguous because it is undefined and subject to varying

interpretations. Defendant further objects on the basis that this Interrogatory seeks legal conclusions and legal argument. Subject to and without waiving the foregoing objections, including the General Objections, Defendant states that it does not intend to make a legal successor claim at this time and refers OCC to Defendant's Response to Interrogatory No. 2. Discovery in this case and Defendant's investigation are continuing, and Defendant reserves the right to amend or supplement its Response to this Interrogatory.

**INTERROGATORY NO. 5.** For each Operation identified in response to Interrogatory No. 2, Identify: (a) the raw materials used; (b) products and intermediates resulting from the Operations; and (c) any Waste Materials.

**RESPONSE:** Defendant incorporates by references its General Objections as if set forth fully herein. Defendant further objects to Interrogatory No. 5 on the grounds that it is overbroad and unduly burdensome, seeks information that is not relevant to the claims made in this lawsuit, is not proportional to the needs of the case, and would not advance litigation, because it is not limited or specific in time, it seeks information unrelated to the subject matter of OCC's Complaint, including Operations which might not have any connection to releases of COCs to OU2, and because Operations are not evidence of an actual discharge. Defendant further objects to the use of the defined term "Operations" to the extent it seeks to call for a legal conclusion or apply a legal or statutory definition. Defendant further objects on the basis that the use of the undefined terms "products" and "intermediates" is vague and ambiguous. Defendant further objects to this Interrogatory because it incorrectly assumes that Defendant's activities at the Jacobus Site produced "products and intermediaries" or Waste Materials. Defendant further objects to this Interrogatory to the extent that it seeks information that contains confidential, trade secret, private, or otherwise protected or proprietary information, and will only produce that information subject to the entry of an appropriate protective order. Subject to and without waiving

the foregoing objections, including the General Objections, Defendant states that information responsive to this Interrogatory can be identified in documents that have been and/or will be produced in this litigation, including without limitation CENJ-FED-0000011527 to CENJ-FED-0000014142; CENJ-FED-0000014520 to CENJ-FED-0000048326; and the hard copy documents identified in Defendant's April 19, 2019 production that are available for review and inspection. Defendant further states that there are no products or intermediates resulting from Defendant's operations. Discovery in this case and Defendant's investigation are continuing, and Defendant reserves the right to amend or supplement its Response to this Interrogatory.

**INTERROGATORY NO. 6.** For each Operation identified in response to Interrogatory No. 2, Identify: (a) each specific location of any storage area(s) (such as tanks, pits, and barrels) used for raw materials and/or Waste Materials; (b) the time period during which the storage area was used; and (c) describe what was stored in each storage area.

**RESPONSE:** Defendant incorporates by references its General Objections as if set forth fully herein. Defendant further objects to Interrogatory No. 6 on the grounds that it is overbroad and unduly burdensome, seeks information that is not relevant to the claims made in this lawsuit, is not proportional to the needs of the case, and would not advance litigation, because, *inter alia*, it is not limited or specific in time, it seeks information unrelated to the subject matter of OCC's Complaint, including Operations which might not have any connection to releases of COCs to OU2, and because Operations are not evidence of an actual discharge. Defendant further objects to the use of the defined term "Operations" to the extent it seeks to call for a legal conclusion or apply a legal or statutory definition. Defendant further objects to this Interrogatory because it incorrectly assumes that Defendant's activities at the Jacobus Site produced Waste Materials. Subject to and without waiving the foregoing objections, including the General Objections, Defendant states that information about storage at the Jacobus Site during the relevant time period can be identified in documents that have been and/or will be produced in this litigation, including

without limitation CENJ-FED-0000003637 to CENJ-FED-0000003857; CENJ-FED-0000001073 to CENJ-FED-0000001990. Discovery in this case and Defendant's investigation are continuing, and Defendant reserves the right to amend or supplement its Response to this Interrogatory.

**INTERROGATORY NO. 7.** For each Property at Issue identified in response to Interrogatory No. 1, Identify all catch basins, floor drains, tanks, sinks, sumps, trenches on the property, outfalls, air emissions, casualty fires, explosions, intentional dumping, and stormwater and storm sewers.

**RESPONSE:** Defendant incorporates by references its General Objections as if set forth fully herein. Defendant further objects to Interrogatory No. 7 on the grounds that it is overbroad and unduly burdensome, seeks information that is not relevant to the claims made in this lawsuit, is not proportional to the needs of the case, and would not advance litigation, because it is not limited or specific in time and it seeks information unrelated to the subject matter of OCC's Complaint, including catch basins, floor drains, tanks, sinks, sumps, trenches on the property, outfalls, air emissions, casualty fires, explosions, intentional dumping, and stormwater and storm sewers which might not have any connection to releases of COCs to OU2, and because these site features are not evidence of an actual discharge. Defendant further objects that the use of the terms "casualty fires" "explosions" and "intentional dumping" is vague and ambiguous, and seeks information that is not relevant to the claims made in this lawsuit, is not proportional to the needs of the case, and would not advance litigation. Subject to and without waiving the foregoing objections, including the General Objections, Defendant states that information about catch basins, floor drains, tanks, sinks, sumps, trenches on the property, outfalls, air emissions, casualty fires, explosions, intentional dumping, and stormwater and storm sewers at the Jacobus Site during the relevant time period, if any, can be identified in documents that have been and/or will be produced in this litigation, including without limitation CENJ-FED-0000003637 to CENJ-FED-0000003857; CENJ-FED-0000001073 to CENJ-FED-0000001990; CENJ-FED-0000011527 to

CENJ-FED-0000014142; CENJ-FED-0000014520 to CENJ-FED-0000048326. Discovery in this case and Defendant's investigation are continuing, and Defendant reserves the right to amend or supplement its Response to this Interrogatory.

**INTERROGATORY NO. 8.** Describe any treatment performed on Waste Material identified in response to Interrogatory No. 5 before it was disposed of.

**RESPONSE:** Defendant incorporates by references its General Objections as if set forth fully herein. Defendant further objects to Interrogatory No. 8 on the grounds that it is overbroad and unduly burdensome, seeks information that is not relevant to the claims made in this lawsuit, is not proportional to the needs of the case, and would not advance litigation, because it is not limited or specific in time, and it seeks information unrelated to the subject matter of OCC's Complaint. Defendant further objects to this Interrogatory because it incorrectly assumes that Defendant's activities at the Jacobus Site produced Waste Materials. Defendant further objects on the basis that the use of the undefined term "treatment" is vague and ambiguous. Subject to and without waiving the foregoing objections, including the General Objections, Defendant states that information about treatment of Waste Material at the Jacobus Site during the relevant time period can be identified in documents that have been and/or will be produced in this litigation, including without limitation CENJ-FED-0000011527 to CENJ-FED-0000014142; CENJ-FED-0000014520 to CENJ-FED-0000048326; and the hard copy documents identified in Defendant's April 19, 2019 production that are available for review and inspection. Discovery in this case and Defendant's investigation are continuing, and Defendant reserves the right to amend or supplement its Response to this Interrogatory.

**INTERROGATORY NO. 9.** For each Operation identified in response to Interrogatory No. 2, Identify any environmental permits, Including without limitation air quality, water quality, waste disposal, stormwater, waste discharge, and/or operating permits.

**RESPONSE:** Defendant incorporates by references its General Objections as if set forth fully herein. Defendant further objects to Interrogatory No. 9 on the grounds that it is overbroad and unduly burdensome, seeks information that is not relevant to the claims made in this lawsuit, is not proportional to the needs of the case, and would not advance litigation, because it is not limited or specific in time, and it seeks information unrelated to the subject matter of OCC's Complaint, including Operations which might not have any connection to releases of COCs to OU2 and including environmental permits which might not have any connection to alleged releases of COCs identified in the ROD for OU2, and because Operations or permits are not evidence of an actual discharge and there are no allegations that air and operational permits are relevant to any releases to the Passaic River. Defendant further objects to the use of the defined term "Operations" to the extent it seeks to call for a legal conclusion or apply a legal or statutory definition. Defendant further objects to this Interrogatory to the extent it implies that any environmental permits were required. Subject to and without waiving the foregoing objections, including the General Objections, Defendant states that information about permits at the Jacobus Site during the relevant time period can be identified in documents that have been and/or will be produced in this litigation, including without limitation CENJ-FED-0000011527 to CENJ-FED-0000014142; CENJ-FED-0000014520 to CENJ-FED-0000048326; or in the public record. Discovery in this case and Defendant's investigation are continuing, and Defendant reserves the right to amend or supplement its Response to this Interrogatory.

**INTERROGATORY NO. 10.** For each Operation identified in response to Interrogatory No. 2, Identify each Disposal Company that handled any Waste Material that contained COCs and for each such company provide: (a) the dates during which that company handled Waste Material; (b) the chemical composition of the Waste Material handled by that company; (c) the methods of storage, handling, treatment, and disposal used by that company; and (d) the location(s) where that company disposed of the Waste Material.

**RESPONSE:** Defendant incorporates by references its General Objections as if set forth fully herein. Defendant further objects to Interrogatory No. 10 on the grounds that it is overbroad and unduly burdensome, seeks information that is not relevant to the claims made in this lawsuit, is not proportional to the needs of the case, and would not advance litigation, because it is not limited or specific in time, and it seeks information unrelated to the subject matter of OCC's Complaint, including Operations which might not have any connection to releases of COCs to OU2, and because Operations are not evidence of an actual discharge to the Passaic River. Defendant further objects to the use of the defined term "Operations" to the extent it seeks to call for a legal conclusion or apply a legal or statutory definition. Defendant further objects to this Interrogatory because it incorrectly assumes that Defendant's activities at the Jacobus Site produced Waste Materials. Subject to and without waiving the foregoing objections, including the General Objections, Defendant states that various Disposal Companies handled waste at the Jacobus Site and additional information responsive to this Interrogatory can be identified in documents that have been and/or will be produced in this litigation, including without the hard copy documents identified in Defendant's April 19, 2019 production that are available for review and inspection. Discovery in this case and Defendant's investigation are continuing, and Defendant reserves the right to amend or supplement its Response to this Interrogatory.

**INTERROGATORY NO. 11.** For each Operation identified in response to Interrogatory No. 2, state whether any raw material, products or intermediates, or Waste Material contained any of the COCs and, if so, Identify: (a) which COC(s) it contained; (b) the raw material or Waste Material that contained the COC; and (c) the approximate quantity (by percentage and concentration) of each COC present in the raw material or Waste Material.

**RESPONSE:** Defendant incorporates by references its General Objections as if set forth fully herein. Defendant further objects to Interrogatory No. 11 on the grounds that it is overbroad and unduly burdensome, seeks information that is not relevant to the claims made in this lawsuit,



is not proportional to the needs of the case, and would not advance litigation, because it is not limited or specific in time, it seeks information unrelated to the subject matter of OCC's Complaint, including Operations or raw materials which might not have any connection to releases of COCs to OU2, and because Operations involving raw material containing COCs, if any, are not evidence of an actual discharge to the Passaic River. Defendant further objects to the use of the defined term "Operations" to the extent it seeks to call for a legal conclusion or apply a legal or statutory definition. Defendant further objects on the basis that the use of the undefined term "intermediates" is vague and ambiguous. Defendant further objects to this Interrogatory because it incorrectly assumes that Defendant's activities at the Jacobus Site produced "products and intermediaries" or Waste Materials. Defendant further objects to this Interrogatory to the extent it calls for scientific information more appropriately addressed by expert witness testimony. Defendant further objects to this Interrogatory to the extent that it seeks information that contains confidential, trade secret, private, or otherwise protected or proprietary information, and will only produce that information subject to the entry of an appropriate protective order. Subject to and without waiving the foregoing objections, including the General Objections, Defendant states that the requested information about the raw materials used in Defendant's Operations and any Waste Materials from the Jacobus Site, if any, during the relevant time period can be identified in documents that have been and/or will be produced in this litigation, including without limitation CENJ-FED-0000011527 to CENJ-FED-0000014142; CENJ-FED-0000014520 to CENJ-FED-0000048326; and the hard copy documents identified in Defendant's April 19, 2019 production that are available for review and inspection. Defendant further states that there are no products or intermediates resulting from Defendant's Operations. Discovery in this case and Defendant's

investigation are continuing, and Defendant reserves the right to amend or supplement its Response to this Interrogatory.

**INTERROGATORY NO. 12.** Identify any contracts You had with the Disposal Sites, any operator(s) of the Disposal Sites, or any party to haul Containers containing Waste Materials to the Disposal Sites and describe: (a) the chemical composition of the materials You disposed of at the Disposal Sites; (b) the time period of this disposal; and (c) the amounts of Waste Materials disposed at the Disposal Sites.

**RESPONSE:** Defendant incorporates by references its General Objections as if set forth fully herein. Defendant further objects to Interrogatory No. 12 on the grounds that it is overbroad and unduly burdensome, seeks information that is not relevant to the claims made in this lawsuit, is not proportional to the needs of the case, and would not advance litigation, because it is not limited or specific in time, and it seeks information unrelated to the subject matter of OCC's Complaint, including disposal practices which might not have any connection to releases of COCs to OU2. Defendant further objects to this Interrogatory because it incorrectly assumes that Defendant's activities at the Jacobus Site produced Waste Materials. Defendant further objects to this Interrogatory to the extent that it requires Defendant to produce information about or in the possession of any entity other than Clean Earth of North Jersey, Inc. Subject to and without waiving the foregoing objections, including the General Objections, Defendant states that it is not aware of any responsive contracts. Discovery in this case and Defendant's investigation are continuing, and Defendant reserves the right to amend or supplement its Response to this Interrogatory.

**INTERROGATORY NO. 13.** Identify any insurance coverage pertaining to any Property at Issue or Operations identified in response to Interrogatories Nos. 1 or 2 that is or may be available to respond to the claims at issue in this litigation and describe the coverage.

**RESPONSE:** Defendant incorporates by references its General Objections as if set forth fully herein. Defendant objects to Interrogatory No. 13 as overbroad and irrelevant. Defendant reserves the right to amend or supplement this objection and its Response to this Interrogatory.

**INTERROGATORY NO. 14.** Identify all of Your officers, employees, or Agents, who played a substantive role or had supervisory responsibilities pertaining to any Property at Issue or Operations identified in response to Interrogatories Nos. 1 or 2 who have or had knowledge of the ownership, history of Operations, raw materials used, products sold, by-products, waste generated and waste disposal practices for Waste Materials, discharge pathways for Waste Materials, and/or any Response Action related to any Property at Issue or Operations identified in response to Interrogatories Nos. 1 or 2 that related to COCs. For each Person identified, state their position or title, years employed or retained by You, last known address and telephone number, and the subject matter(s) about which they have knowledge.

**RESPONSE:** Defendant incorporates by references its General Objections as if set forth fully herein. Defendant further objects to Interrogatory No. 14 on the grounds that it is overbroad and unduly burdensome, seeks information that is not relevant to the claims made in this lawsuit, is not proportional to the needs of the case, and would not advance litigation, because it is not limited or specific in time, and it seeks information unrelated to the subject matter of OCC's Complaint. Defendant further objects to the use of the defined term "Operations" to the extent it seeks to call for a legal conclusion or apply a legal or statutory definition. Defendant further objects to this Interrogatory as vague and ambiguous, and overbroad in its use of the phrase "Your officers, employees, and Agents" to the extent that it requires Defendant to produce information about any entity other than Clean Earth of North Jersey, Inc. Defendant further objects to this Interrogatory because it incorrectly assumes that Defendant's activities at the Jacobus Site produced Waste Materials. Subject to and without waiving the foregoing objections, including the General Objections, Defendant refers to its December 19, 2018 Initial Disclosures. Discovery in this case and Defendant's investigation are continuing, and Defendant reserves the right to amend or supplement its Response to this Interrogatory.

**INTERROGATORY NO. 15.** Are You a party to any joint defense agreement(s) (whether written or unwritten) between or among You and any other Person relating to this litigation and/or any of the Properties at Issue? If so, Identify the parties to the agreement and state the date it was signed (or verbally agreed to) and became effective.

**RESPONSE:** Defendant incorporates by references its General Objections as if set forth fully herein. Defendant further objects to Interrogatory No. 15 on the grounds that it is overbroad and unduly burdensome, seeks information that is not relevant to the claims made in this lawsuit, is not proportional to the needs of the case, and would not advance litigation. Defendant further objects to this Interrogatory to the extent it seeks information shielded from discovery by the attorney-client, work-product, joint defense, or self-evaluative privileges. Subject to and without waiving the foregoing objections, including the General Objections, Defendant is, or has been, a party to the following joint defense agreements:

a. A Lower Passaic River Small Parties Group (SPG) Joint Defense Agreement entered into on or around May 9, 2008 with a Joinder Agreement and Amendment No. 1 entered into on or around September 28, 2018. The membership of the group was amended and supplemented over time as parties joined and left the group. The following entities are current or former parties to this joint defense agreement:

1. Akzo Nobel Coatings Inc.
2. Alcatel-Lucent USA
3. Alliance Chemical, Inc.
4. Arkema Inc.
5. Ashland Inc.
6. Atlantic Richfield Company
7. BASF Corporation
8. Bath Iron Works Corporation
9. Benjamin Moore & Co.
10. Canning Gumm LLC
11. CBS Corporation
12. Celanese Ltd.
13. Chemtura Corporation/Raclaur LLC
14. Chevron Environmental Management Company
15. Clean Earth of North Jersey
16. Coats & Clark Inc.
17. Coltec Industries Inc.
18. Congoleum Corporation
19. Conopco, Inc.

20. Cooper Industries LLC
21. Covanta Essex Company
22. Croda Inc.
23. DII Industries, LLC
24. DiLorenzo Properties Company on behalf of itself and the Goldman/Goldman/DiLorenzo Properties Partnership
25. DuPont Company
26. Emerald Kalama Chemical LLC
27. EPEC Polymers, Inc.
28. Essex Chemical Corporation
29. The Essex County Improvement Authority (as contractual indemnitor for Celanese's former Doremus Avenue facility)
30. Franklin-Burlington Plastics, Inc.
31. Garfield Molding Co. Inc.
32. General Electric Co.
33. Givaudan Fragrances Corporation
34. Goodrich Corporation
35. The Hartz Consumer Group, Inc.
36. Hess Corporation
37. Hexcel Corporation
38. Hoffman-LaRoche
39. Honeywell
40. ISP Chemicals LLC
41. ITT
42. Johnson & Johnson Consumer Products Inc.
43. Kalama Specialty Chemicals Inc.
44. Kao Brands Company
45. Leemilt's Petroleum, Inc.
46. Linde, Inc.
47. Mallinckrodt LLC
48. Millennium Chemicals, Inc. affiliated entities MHC, Inc. (on behalf of itself and Walter Kidde & Company, Inc.)
49. Millennium Petrochemicals, Inc. (f/k/a Quantum Chemical Corporation)
50. Equistar Chemicals LP
51. Nappwood Land Corporation
52. National-Standard, LLC
53. The Newark Group, Inc.
54. Newell Rubbermaid Inc., on behalf of itself and its wholly-owned subsidiaries Goody Products, Inc. and Berol Corporation (as successor by merger to Faber-Castell Corporation)
55. News Publishing Australia Ltd.
56. Novelis Corporation
57. Noveon Hilton Davis, Inc.
58. The Okonite Company
59. Otis Elevator Company
60. Pabst Brewing Company, LLC
61. Pfizer Inc.

62. Pharmacia Corporation
63. PPG Industries, Inc.
64. PSEG
65. Purdue Pharma Technologies, Inc.
66. Quality Carriers, Inc. (as successor to Chemical Leaman Tank Lines)
67. Reichhold Inc.
68. Revere Smelting & Refining
69. Royce Associates, A Limited Partnership
70. RTC Properties, Inc.
71. Safety-Kleen Envirosystems Company
72. McKesson Corporation
73. Sequa Corporation
74. The Sherwin-Williams Company
75. The Stanley Works
76. STWB Inc.
77. Sun Chemical
78. Sunoco (R&M) LLC
79. Sunoco Partners, Marketing, & Terminals, L.P.
80. Tate & Lyle Ingredients Americas, Inc. (f/k/a A.E. Staley Manufacturing Company, including its former division Staley Chemical Company)
81. Teva Pharmaceuticals USA, Inc.
82. Textron Inc.
83. Three County Volkswagen
84. Tiffany & Company
85. United States Steel Corporation
86. Vulcan Materials Company
87. Wyeth, on behalf of Shulton, Inc.

b. A Joint Defendant Agreement entered into on or around March 6, 2009 with regard to the litigation captioned *New Jersey Department of Environmental Protection v. Occidental Chemical Corporation* (Docket No. ESX-L-9868-05) in New Jersey Superior Court, Essex County. The entities that have been parties to this joint defense agreement include:

1. Bayonne Industries
2. Campbell Foundry Company
3. CasChem, Inc.
4. CBS Corporation
5. Clean Earth of North Jersey, Inc.
6. Coltec Industries Inc.
7. Como Textile Prints, Inc.
8. Cosan Chemical Corporation
9. CS Osborne & Co.
10. Curtiss-Wright Corporation
11. Deleet Merchandising Corporation
12. Elan Chemical Company, Inc.

13. Eden Wood Corporation
14. Hilton Davis Chemicals, Co. (Goodrich Corporation)
15. EM Sergeant Pulp & Chemical Co.
16. FER Plating, Inc.
17. GenTek Holding LLC
18. GJ Chemical Co., Inc.
19. Kalama Specialty Chemicals Inc. (Goodrich Corporation)
20. Harrison Supply Company
21. Hexion Specialty Chemicals Inc. (k/n/a Momentive Specialty Chemicals Inc.)
22. IMTT-Bayonne
23. ISP Chemicals LLC
24. Kearny Smelting & Refining Corp.
25. Mace Adhesives (defunct company)
26. Miller Environmental
27. Norpak Corporation
28. Orange and Rockland Utilities, Inc.
29. Passaic Pioneers Properties Company
30. PhilBro, Inc.
31. Pivotal Utility Holdings
32. Precision Manufacturing Group, LLC
33. Prentiss Incorporated
34. RT Vanderbilt Company, Inc.
35. Seton Company
36. Siemens Water Technologies Corp.
37. Spectraserv, Inc.
38. Superior MPM LLC
39. Teval Corp.
40. Thomas & Betts Corp.
41. Veolia ES Technical Solutions, LLC
42. Vitusa Corp.
43. Wiggins Plastics, Inc.

c. A Joint Defense Agreement entered into on or around August 15, 2018 related to the Diamond Alkali Superfund Site Small Parties Litigation Group. The membership of the group was amended and supplemented over time as parties joined and left the group. The following entities are current or former parties to this joint defense agreement:

1. 21st Century Fox America, Inc.
2. Akzo Nobel Coatings Inc.
3. Arkema Inc.
4. Ashland LLC
5. Atlantic Richfield Company
6. BASF Corporation (on its own behalf and on behalf of BASF Catalysts LLC)
7. Bath Iron Works Corporation
8. Benjamin Moore & Co.
9. Canning Gumm LLC
10. CBS Corporation

11. Clean Earth of North Jersey, Inc.
12. CNA Holdings LLC (by and through its indemnitor Essex County Improvement Authority)
13. Coats & Clark Inc.
14. Conopco, Inc., d/b/a Unilever (as successor to CPC/Bestfoods, former parent of Penick Corporation)
15. Cooper Industries, LLC
16. Covanta Essex Company
17. Croda, Inc.
18. DII Industries, LLC
19. E. I. du Pont de Nemours and Company (on its own behalf and on behalf of Pitt-Consol Chemical Company)
20. EnPro Holdings, Inc. (successor to Coltec Industries Inc.)
21. Essex Chemical Corporation
22. Franklin-Burlington Plastics, Inc.
23. Garfield Molding Company, Inc.
24. General Electric Company
25. Givaudan Fragrances Corporation
26. Kalama Specialty Chemicals, Inc.
27. Noveon Hilton Davis, Inc.
28. Emerald Kalama Chemical, LLC
29. Goodrich Corporation on behalf of itself, Kalama Specialty Chemicals, Inc., Emerald Kalama Chemical, LLC, and Noveon Hilton Davis, Inc.
30. Harris Corporation for itself and as successor in interest by merger to Exelis Inc., successor in interest to ITT Corporation, Avionics Division
31. Hexcel Corporation
32. Hoffman-LaRoche Inc.
33. Honeywell International Inc.
34. ISP Chemicals LLC
35. Johnson & Johnson
36. Leemilt's Petroleum, Inc.
37. Legacy Vulcan, LLC
38. Mallinckrodt LLC
39. MI Holdings, Inc.
40. Nappwood Land Corporation
41. National-Standard, LLC
42. Newell Brands Inc. (f/k/a Newell Rubbermaid Inc.) on behalf of itself and its subsidiaries Goody Products, Inc. and Berol Corporation (as successor by merger to Faber-Castell Corporation)
43. Nokia of America Corporation
44. Novartis Corporation
45. Novelis Corporation (f/k/a Alcan Aluminum Corp.)
46. Otis Elevator Company
47. Pabst Brewing Company, LLC
48. Pharmacia LLC
49. PPG Industries, Inc.
50. Public Service Electric & Gas Company (PSE&G)



51. Purdue Pharma Technologies, Inc.
52. Quala Systems, Inc.
53. Quality Carriers, Inc.
54. Revere Smelting & Refining Corporation
55. Royce Associates, A Limited Partnership
56. RTC Properties, Inc.
57. Safety-Kleen EnviroSystems Company, by McKesson Corporation and McKesson Corporation for itself
58. Sequa Corporation
59. Stanley Black & Decker, Inc.
60. STWB Inc.
61. Sun Chemical Corporation
62. TPL Management Operations, a series of Evergreen Resources Group, LLC on behalf of itself and Sunoco (R&M), LLC and Sunoco Partners Marketing & Terminals L.P.
63. Tate & Lyle Ingredients Americas LLC
64. Textron Inc.
65. The Hartz Consumer Group (as successor to certain liabilities of The Hartz Mountain Corporation)
66. The Newark Group, Inc.
67. The Okonite Company, Inc.
68. The Sherwin-Williams Company
69. Tiffany & Company
70. United States Steel Corporation

Defendant, either individually and/or as a member of an above-listed group, is currently sharing or has previously shared information and/or communications with others based on certain non-written common interest arrangements with other entities and/or groups. Discovery in this case and Defendant's investigation are continuing, and Defendant reserves the right to amend or supplement its Response to this Interrogatory.

**INTERROGATORY NO. 16.** Identify and describe all litigations, arbitrations, mediations, or settlements in which You have been involved relating to any Property at Issue or Operations identified in response to Interrogatories Nos. 1 or 2 that pertained in any way to the COCs, Identify the outcome of those proceedings, and Identify where Documents related to those proceedings are stored.

**RESPONSE:** Defendant incorporates by references its General Objections as if set forth fully herein. Defendant further objects to Interrogatory No. 16 on the grounds that it is overbroad to the extent it seeks information regarding any litigations, arbitrations, mediations, or settlements

related to the Jacobus Site or Defendant's Operations. Defendant further objects to this Interrogatory because it seeks information that is not relevant to the claims made in this lawsuit. Defendant further objects to this Interrogatory on the grounds that it seeks public information equally available to OCC. Subject to and without waiving the foregoing objections, including the General Objections, Defendant states that it was involved in State Court Litigation, which was resolved by settlement between Defendant and third-party plaintiffs Maxus Energy Corporation and Tierra Solutions, Inc. Discovery in this case and Defendant's investigation are continuing, and Defendant reserves the right to amend or supplement its Response to this Interrogatory.

**INTERROGATORY NO. 17.** Identify the dates and describe the nature and results of any soil, groundwater, surface water, stormwater, sediment, wastewater, or other site media sampling that relates to COCs on any Property at Issue identified in response to Interrogatory No. 1 or in the Passaic River.

**RESPONSE:** Defendant incorporates by references its General Objections as if set forth fully herein. Defendant further objects to Interrogatory No. 17 on the grounds that it is overbroad and unduly burdensome, seeks information that is not relevant to the claims made in this lawsuit, is not proportional to the needs of the case, and would not advance litigation, because it is not limited or specific in time, and it seeks information unrelated to the subject matter of OCC's Complaint. Defendant further objects to this Interrogatory to the extent that it seeks information that contains confidential, trade secret, private, or otherwise protected or proprietary information, and will only produce that information subject to the entry of an appropriate protective order. Defendant further objects to this Interrogatory to the extent it seeks information shielded from discovery by the attorney-client, work-product, joint defense, or self-evaluative privileges. Subject to and without waiving the foregoing objections, including the General Objections, Defendant states that information pertaining to sampling can be identified in documents that have been and/or will be produced in this litigation, including without limitation CENJ-FED-0000050683 to CENJ-

FED-0000066330. Discovery in this case and Defendant's investigation are continuing, and Defendant reserves the right to amend or supplement its Response to this Interrogatory.

**INTERROGATORY NO. 18.** For any Property at Issue identified in response to Interrogatory No. 1, Identify and describe any Response Action that has occurred on that location.

**RESPONSE:** Defendant incorporates by references its General Objections as if set forth fully herein. Defendant further objects to Interrogatory No. 18 on the grounds that it is overbroad and unduly burdensome, seeks information that is not relevant to the claims made in this lawsuit, is not proportional to the needs of the case, and would not advance litigation, because it is not limited or specific in time, and it seeks information unrelated to the subject matter of OCC's Complaint. Defendant further objects to this Interrogatory to the extent it seeks information shielded from discovery by the attorney-client, work-product, joint defense, or self-evaluative privileges. Subject to and without waiving the foregoing objections, including the General Objections, Defendant states there have been Response Actions at the Jacobus Site and that information pertaining to Response Actions can be identified in documents that have been and/or will be produced in this litigation, including without limitation CENJ-FED-0000050683 to CENJ-FED-0000066330. Discovery in this case and Defendant's investigation are continuing, and Defendant reserves the right to amend or supplement its Response to this Interrogatory.

**INTERROGATORY NO. 19.** For any Property at Issue identified in response to Interrogatory No. 1, Identify and describe any major capital improvements and/or major changes to the footprint of the property.

**RESPONSE:** Defendant incorporates by references its General Objections as if set forth fully herein. Defendant further objects to Interrogatory No. 19 on the grounds that it is overbroad and unduly burdensome, seeks information that is not relevant to the claims made in this lawsuit, is not proportional to the needs of the case, and would not advance litigation, because it is not

limited or specific in time, and it seeks information unrelated to the subject matter of OCC's Complaint. Defendant further objects on the basis that the use of the undefined terms "major capital improvements" and "major changes" is vague and ambiguous because they are undefined and subject to varying interpretations. Defendant further objects to this Interrogatory because any potentially relevant information sought thereby would be duplicative of Interrogatory No. 2. Subject to and without waiving the foregoing objections, including the General Objections, Defendant states that information pertaining to major capital improvements and/or major changes to the footprint of the property at the Jacobus Site, if any, can be identified in documents that have been and/or will be produced in this litigation, including without limitation CENJ-FED-0000003637 to CENJ-FED-0000003857; CENJ-FED-00000001059 to CENJ – FED – 0000001072; CENJ-FED-0000014520 to CENJ-FED-0000048326. Discovery in this case and Defendant's investigation are continuing, and Defendant reserves the right to amend or supplement its Response to this Interrogatory.

**INTERROGATORY NO. 20.** Identify all complaints, Communications, or notices by any governmental agency or other Persons concerning any alleged release or disposal of COCs at or from each Property at Issue or Operations identified in response to Interrogatory Nos. 1 or 2.

**RESPONSE:** Defendant incorporates by references its General Objections as if set forth fully herein. Defendant further objects to Interrogatory No. 20 on the grounds that it is overbroad and unduly burdensome, seeks information that is not relevant to the claims made in this lawsuit, is not proportional to the needs of the case, and would not advance litigation, because it is not limited or specific in time, and it seeks information unrelated to the subject matter of OCC's Complaint. Defendant further objects on the basis that the use of the undefined terms "release" and "disposal" is vague and ambiguous because they are undefined and subject to varying interpretations, and because this Interrogatory assumes a release or disposal of COCs from the

Jacobus Site. Defendant further objects to this Interrogatory to the extent it seeks information shielded from discovery by the attorney-client, work-product, joint defense, or self-evaluative privileges. Subject to and without waiving the foregoing objections, including the General Objections, Defendant states that information pertaining the referenced complaints, Communications, or notices, if any, can be identified in documents that have been and/or will be produced in this litigation, including without limitation CENJ-FED-0000000001 to CENJ-FED-0000005788. Discovery in this case and Defendant's investigation are continuing, and Defendant reserves the right to amend or supplement its Response to this Interrogatory.

**INTERROGATORY NO. 21.** Identify or describe Your document retention and destruction polic(ies) relating to the retention or destruction of business records relating to each Property at Issue or Operations identified in response to Interrogatory Nos. 1 or 2.

**RESPONSE:** Defendant incorporates by references its General Objections as if set forth fully herein. Defendant further objects to Interrogatory No. 21 on the grounds that it is overbroad and unduly burdensome, seeks information that is not relevant to the claims made in this lawsuit, is not proportional to the needs of the case, and would not advance litigation. Defendant further objects to this Interrogatory as constituting impermissible discovery-on-discovery that is not permitted without a showing of bad faith or unlawful withholding of information. Discovery in this case and Defendant's investigation are continuing, and Defendant reserves the right to amend or supplement its Response to this Interrogatory.

**INTERROGATORY NO. 22.** Identify all Response Action costs for which You seek recovery in this litigation and for each, describe the purpose for which those costs were spent and what documentation You have establishing that You incurred and paid those costs.

**RESPONSE:** Defendant incorporates by references its General Objections as if set forth fully herein. Defendant objects to Interrogatory No. 22 as premature. Defendant further objects to Interrogatory No. 22 on the grounds that it seeks information that is not relevant to the claims

made in this lawsuit, is not proportional to the needs of the case, and would not advance litigation. Discovery in this case and Defendant's investigation are continuing, and Defendant reserves the right to amend or supplement its Response to this Interrogatory.

**INTERROGATORY NO. 23.** Identify and Describe all settlements related to claims for environmental liability pertaining to any Property at Issue or Operations identified in response to Interrogatories Nos. 1 or 2 with non-parties (including, but not limited to Defendants voluntarily dismissed from the current litigation and governmental entities) regarding any Properties at Issue.

**RESPONSE:** Defendant incorporates by references its General Objections as if set forth fully herein. Subject to and without waiving the foregoing objections, including the General Objections, Defendant directs OCC to Response No. 16. Discovery in this case and Defendant's investigation are continuing, and Defendant reserves the right to amend or supplement its Response to this Interrogatory.

**INTERROGATORY NO. 24.** Identify any property or facility, other than a Property at Issue, located within the Lower Passaic River Study Area as depicted in Attachment 1, at which You conducted Operations.


**RESPONSE:** Defendant incorporates by references its General Objections as if set forth fully herein. Defendant objects to Interrogatory No. 24 on the grounds that it is overbroad and unduly burdensome, seeks information that is not relevant to the claims made in this lawsuit, is not proportional to the needs of the case, and would not advance litigation. Discovery in this case and Defendant's investigation are continuing, and Defendant reserves the right to amend or supplement its Response to this Interrogatory.

**CERTIFICATION**

I certify that the Responses to the foregoing Interrogatories are true and correct to the best of my knowledge based on either my personal knowledge or upon my review of documents and information provided to me.

I certify that the foregoing statements made by me are true and correct. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Date: July 1, 2019

A handwritten signature in black ink, appearing to read "Averil B. Rance". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

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Averil Rance